

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 14TH DECEMBER 2006 / 23RD AGRAHAYANA 1928

O.P.No. 6105 of 2001(B)

PETITIONER:

R.AJAYALAL, PARVATHY BHAVAN,
MANNANCHERRY P.O., APLAPPUZHA.

BY ADV. SRI.P.V.JAYACHANDRAN

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE
JOINT SECRETARY TO LABOUR,
LABOUR & REHABILITATION DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.
2. THE DISTRICT EXECUTIVE OFFICER, KERALA MOTOR
TRANSPORT WORKERS WELFARE FUND BOARD,
ALAPPUZHA.
3. THE DEPUTY TAHSILDAR (RR),
TALUK OFFICE, AMBALAPPUZHA,
ALAPPUZHA.

R1&R3 BY GOVERNMENT PLEADER SMT. LATHA T. THANKAPPAN
R2 SMT.I.SHEELADEVI, SC, KMTWF BOARD
ADV. SRI.V.V.SURENDRAN, SC , KMTWF BOARD

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 14/12/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER ON C.M.P.NO.10105 OF 2001 IN O.P.NO.6105 OF 2001

DISMISSED

14/12/2006

Sd/- A.K.BASHEER, JUDGE

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF ORDER G.O.(RT) NO.2449/97/LBR DATED 27.8.1997 ISSUED BY THE 1ST RESPONDENT.

EXT.P2: COPY OF ASSESSMENT ORDER NO.B1,EA.206/94-96/FDO/REV. DATED 29.10.1998 ISSUED BY THE 2ND RESPONDENT.

EXT.P3: COPY OF LETTER DATED 28.12.1996 SUBMITTED BY SRI.NIZAR TO THE 2ND RESPONDENT.

EXT.P4: COPY OF APPEAL DATED 7.1.1999 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P5: COPY OF ORDER G.O.(RT) NO.3608/2000/LBR DATED 19.10.2000 ISSUED BY THE 1ST RESPONDENT.

EXT.P6: COPY OF THE RECEIPT ISSUED BY THE VILLAGE OFFICE.

TRUE COPY

P.A.TO JUDGE

A.K.BASHEER,J

O.P.NO.6105 OF 2001

DATED THIS THE 14TH DAY OF DECEMBER,2006

JUDGMENT

Petitioner who is said to be the registered owner of a stage carriage bearing registration no. KLB 2437 has preferred this original petition challenging Ext.P2 and P5 orders issued by respondent no.2 and respondent no.1 respectively. The issue relates to the alleged liability of the petitioner to pay contributions to the Kerala Motor Workers Welfare Fund for the year 1994-1995 and 1995-1996.

2. Respondent no.2, the District Executive Officer of the Board, found that the petitioner was liable to pay a sum of Rs.14,633/- for the assessment years mentioned above. The order passed by the Executive Officer was challenged by the petitioner before the respondent no.1, the appellate authority. The matter was reconsidered by respondent no.1, after hearing the petitioner and examining the records. Respondent no.1 concurred with the findings entered by respondent no.2 and dismissed the appeal. Copy of the above order is on record as Ext.P5. It is in the above circumstances that the petitioner has preferred this original petition for the relief mentioned as supra.

3. It is contended by Miss.Keerthi, learned counsel for the petitioner that Ext.P2 and P5 orders are exfacie illegal and liable to be quashed. According to the learned counsel, the authorities have not adverted to the relevant aspects of the case. One Sri. Nizar who was a casual employee was treated as though he was a regular employee and assessment was made on that basis. It is further contended that the petitioner had not operated the service from June 16,1995 to July 12, 1995 because of a strike called by the employees.

4. However, Miss.Sindhu learned counsel appearing on behalf of respondent no.2, contends that the petitioner had not produced any document to show that he had not been operating the service during the relevant period. In fact he had been operating the service throughout. It is also pointed out by the learned counsel that Ext.P3 which is allegedly issued by Sri.Nizar is a document which was obtained only in December 1996. Though it is stated in Ext.P3 that Sri.Nizar was working as a casual employee, the Officer of the Board on scrutiny of the records and other materials which were produced by the petitioner had come to the conclusion that Sri.Nizar was working in the establishment on a regular basis during the relevant period.

5. I have carefully perused Ext.P2 and P3 and heard learned counsel for the parties. The authorities below have come to the conclusion that petitioner is liable to pay contributions after a careful examination of the materials on records. As rightly noticed by respondent no.1, petitioner had not produced any documents to substantiate his contentions. This court under Article 226 of the constitution cannot act as an appellate authority and reassess or re-evaluate the disputed questions of fact. The statutory authorities, in my view, have come to the right conclusions. No interference is warranted with the impugned orders. The original petition fails and it is accordingly dismissed.

A.K.BASHEER,JUDGE.

dvs